

Enclosures from said Dermatology publication:

1. Table of Contents
2. Author index (behind cover page)
3. Summaries of Posters

There is no reference to this Congress or to the attached Proceedings in the report on Axenohl® itself. An inquiry was made to our paralegal who prepared the IDS as to why this was attached with the report. According to our paralegal, the document listed as No. 76 on the IDS was obtained from the PTO website from an IDS submitted in a copending case. Our paralegal did not review the entire contents of the document and did not notice the Dermatology cover page that was included with it.

We have obtained the table of contents for the Dermatology Proceedings issue that was attached as well as an author index that covers both the abstracts and the posters and a collection of the contents of the posters themselves. We are unable to find any reference to the subject matter of the above-referenced application in any of these documents. Copies are enclosed.

First, according to the author index, there is only one presentation by anyone named Arata and that person has a different first initial. According to the table of contents, abstract No. 107 to T. Arata and several others concerns “Antiseptic Effects at Injection Sites” and does not appear to have any relevance to the present application. None of the other titles in the table of contents do either. According to the abstracts of the posters contained starting at page 121, again, there appear to be no posters that are related to the present application. Applicant is at a loss to explain why the PTO copy of this document included this cover sheet.

The Lin report of Experimental Results is clearly not included. There is no author Lin included on the author index. In addition, we believe the Lin report was composed in 2000 at the request of the present assignee. The subject of the report, has to do with the microorganism that causes Legionnaires disease and is found in cooling towers. It has no relationship to any skin diseases and would not be appropriate for a conference directed to dermatology. Thus, the questions posed by the Office are probably no longer relevant, however they are addressed follows:

In answer to (1), the article by Lin did not appear in this journal.

To the knowledge of the present assignee, there is no article on Axenohl[®] or similar silver product by applicant, applicant's assignee or predecessor assignees published prior to 9 October 1997.

As to question (2), the table of contents are the best source as to what was disclosed at the conference. With regard to (2a), the present assignee is not aware of any disclosure of this product prior to 9 October 1997 nor was there any (2b) sale or offer for sale or commercial activity prior to this date.

As to (2c) the Lin, *et al.*, report was prepared during the year 2000, subsequent to the filing of US 09/169,229, the grandparent application herein.

As to (2d) to the present assignee's knowledge there was no disclosure related to Axenohl[®] or similar product by applicant, applicant's assignee or predecessor assignees at the Third Asian Pacific Congress on Antisepsis or any other meeting prior to 9 October 1997.

As to (3), enclosed is an English translation of the opposition to the counterpart European granted EP 1,041,879, which opposition has been withdrawn.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 631342000111.

Dated: January 22, 2010

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